

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JAMES A FULLARD, SR.

:

Plaintiff

:

v

:

Civil Action No. CCB-07-188

THELMA BLACKSTON

:

Defendant

:

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MEMORANDUM

The above-captioned case, filed January 19, 2007, alleges that plaintiff's criminal trial transcript was unlawfully altered by defendant. Paper No. 1. Plaintiff has filed similar claims in the past, all of which were dismissed, and has accumulated three or more dismissals of prisoner civil rights actions pursuant to 28 U.S.C. § 1915(e).¹ The statute precludes a prisoner litigant, who has received three or more dismissals from filing a prisoner civil action *in forma pauperis* unless he can show that he is in "imminent danger of serious physical injury." Thus, the instant complaint must be evaluated under 28 U.S.C. § 1915(g) to see whether the claim meets the "imminent danger" exception.

To meet the imminent danger requirement of 28 U.S.C. § 1915(g), the "threat or prison condition [must be] real and proximate." *Lewis v. Sullivan*, 279 F.3d 526, 529 (7th Cir. 2002). Allegations of past harm do not suffice; the harm must be imminent or occurring at the time the complaint is filed. *See Heimermann v. Litscher*, 337 F.3d 781, 782 (7th Cir. 2003); *Malik v.*

¹ See *Fullard v. City of Baltimore*, Civil Action No. CCB-97-595 (D. Md. 1997) (dismissed as frivolous March 7, 1997); *Fullard v. JCI Finance*, Civil Action No. CCB-06-1508 (D. Md. 2006) (dismissed as frivolous June 26, 2006); *Fullard v. Smith*, Civil Action No. CCB-06-1509 (dismissed as frivolous June 26, 2006); and *Fullard v. Walker*, Civil Action No. CCB-06-3437 (D. Md. 2006).

McGinnis, 293 F.3d 559, 562-63 (2^d Cir. 2002); *Abdul-Akbar v. McKelvie*, 239 F.3d 307, 318 (3^d Cir. 2001) (en banc). Upon review of the allegations raised in the instant complaint, it is clear that plaintiff cannot show that he is in imminent danger. Accordingly, he is not permitted to file this claim unless it is accompanied by the \$350 filing fee. By separate order which follows, the complaint shall be dismissed without prejudice.

February 9, 2007
Date

_____/s/_____
Catherine C. Blake
United States District Judge